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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

JANE DOE 1, JANE DOE 2, JANE DOE 3, JANE DOE 4, JOHN DOE 1, and JOHN DOE 2, Plaintiffs, vs. RICHARD MILES and BRENDA MILES, a community; Defendants.	PLAINTIFFS' ALTERNATIVE MOTION FOR LEAVE TO TAKE EARLY DEPOSITIONS Case No. 1:18-cv-00121-JNP The Honorable Jill N. Parrish
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COME NOW Plaintiffs and submit this ALTERNATIVE MOTION FOR LEAVE TO TAKE EARLY DEPOSITIONS, filed concurrently with and in the alternative to Plaintiffs' Response to Defendants' Request for Oral Argument. If the Court is inclined to follow Defendants' invitation to delay a decision on Defendants' Motion to Dismiss, Plaintiffs seek leave from the Court, per Rule 26, to conduct early oral depositions of two key witnesses: (1) Russell M. Nelson, the Father and Father-in-Law of the Defendants, as explained in Plaintiffs' Complaint; and (2) Craig Smith, the Stake President of the Bountiful ward at the time of the allegations described in Plaintiffs' Complaint. As detailed in the Complaint, both of these gentlemen are

believed to have critical information relating to the germane issues of this case. Delaying a decision on the Motion to Dismiss is especially problematic because Russell M. Nelson and Craig Smith are both of advanced age, with Russell M. Nelson, specifically, being 94 years old. Plaintiffs' risk being irreparably prejudiced by a delay.

Generally, "a party may not seek discovery from any source before the parties have conferred as required by Rule 26(f), except . . . when authorized by [the Federal Rules of Civil Procedure], by stipulation, or by court order." FED. R. CIV. P. 26(d)(1). When a party seeks to take an oral deposition before the time specified in Rule 26(d), that party must stipulate with opposing counsel to the deposition or obtain leave of the court. FED. R. CIV. P. 30(a)(2)(A)(iii). "The court must grant leave to the extent consistent with Rule 26(b)(1) and (2)[.]" FED. R. CIV. P. 30(a)(2).

Given the advanced ages of Mr. Nelson and Mr. Smith, if these proceedings are delayed, Plaintiffs are at risk of being irreparably prejudiced by further delay. If the Court is inclined to follow the suggestion of Defendants to delay this case, then Plaintiffs request that the Court grant leave for Plaintiffs to take these early depositions.

Respectfully submitted this 11th day of December 2018.

JAMES, VERNON & WEEKS, P.A.
Attorneys for Plaintiffs

By: 

CRAIG K. VERNON

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of December, 2018, I caused to be served via ECF/Email and/or U.S. Mail, postage prepaid, a true and correct copy of the foregoing PLAINTIFFS' ALTERNATIVE MOTION FOR LEAVE TO TAKE EARLY DEPOSITIONS to:

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